

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #2	CCRB Case #: 201907661	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/16/2019 1:58 AM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 2/16/2021	EO SOL 10/3/2021	
Date/Time CV Reported Fri, 08/16/2019 1:58 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/28/2019 10:52 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT John Begg	04357	923547	PSA 9
2. Officers			
3. An officer			
4. POM Nicholas Russo	10519	962072	PSA 9

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mahmut Halis	03082	960633	PSA 9
2. POM Richard Molina	06498	966720	PSA 9
3. POM Jhovanny Ysabel	14828	943976	PSA 9
4. POM Pedro Chavez	03008	962311	PSA 9
5. POM Alexander Cubano	03645	962337	PSA 9
6. POM Diego Rosero	14041	957108	PSA 9
7. POM James Diberardino	17292	954733	PSA 9
8. POM Aleksandar Antic	27228	966440	PSA 9
9. LT Javad Valad	00000	937665	QNS CT
10. POM Christophe Bair	04941	966454	PSA 9
11. POM Dudley Vincent	02455	961426	PSA 9
12. CPT Peter Franzese	00000	913096	DBQN
13. POF Stacy Zaunalequin	22155	953600	PSA 9
14. POM Ganesh Persaud	10796	949478	PSA 9
15. POM Andrew Cottone	14988	960398	PSA 9

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: § 87(2)(b) officers used physical force against § 87(2)(b)	§ 87(2)(g)
B. Officers	Force: § 87(2)(b) officers used physical force against § 87(2)(b)	§ 87(2)(g)
C. An officer	Abuse: § 87(2)(b) an officer interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
D.SGT John Begg	Abuse: § 87(2)(b) Sergeant John Begg failed to provide § 87(2)(b) with a business card.	§ 87(2)(g)
E.SGT John Begg	Abuse: § 87(2)(b) Sergeant John Begg refused to provide his name to § 87(2)(b)	§ 87(2)(g)
F.SGT John Begg	Abuse: § 87(2)(b) Sergeant John Begg refused to provide his shield number to § 87(2)(b)	§ 87(2)(g)
G.POM Nicholas Russo	Discourtesy: § 87(2)(b) Police Officer Nicholas Russo spoke discourteously to § 87(2)(b)	§ 87(2)(g)

## Case Summary

On August 16, 2019, Sergeant Christopher Stavros of PSA 9 filed the following complaint with IAB on the behalf of § 87(2)(b). It was received at the CCRB on August 28, 2019, via IAB log # 19-31926 (Original log # 19-31224).

On August 16, 2019, at about 1:58 AM, § 87(2)(b) several officers assigned to Public Sector Area (PSA) 9, including Sergeant John Begg, Police Officer Alexsander Antic, Police Officer Mahmut Halis, Police Officer Marsaysha Neufville, Police Officer Andrew Cottone, Police Officer James Diberardino, Police Officer Jhovanny Ysabel, Police Officer Alexander Cubano, Police Officer Pedro Chavez, Police Officer Ganesh Persaud, Police Officer Stacy Zaunalequin, and Police Officer Diego Rosero, approached § 87(2)(b) to arrest him for violating an active order of protection. They then forcibly took him down to the ground and handcuffed him (**Allegation A: Force – Physical Force**, § 87(2)(g)). Officers also allegedly used force in arresting another individual who was present, § 87(2)(b) and tried to prevent a witness, § 87(2)(b) from video recording the incident (**Allegation B: Force – Physical Force; Allegation C: Interference with Recording**, § 87(2)(g)). § 87(2)(b) allegedly requested a name, shield number, and business card from Sergeant Begg but he did not provide § 87(2)(b) with any of them (**Allegation D: Abuse of Authority – Failure to Provide RTKA card; Allegation E: Refusal to Provide Name; Allegation F: Refusal to Provide Shield Number**, § 87(2)(g)). § 87(2)(b) was subsequently removed to § 87(2)(b) after complaining about pain to his arm. While at the hospital, Police Officer Nicholas Russo (also of PSA 9) allegedly used profanity while speaking to him (**Allegation G: Discourtesy -- Word**, § 87(2)(g)). § 87(2)(b) was charged with § 87(2)(b) (Board Review 07). § 87(2)(b) was charged with § 87(2)(b) (Board Review 08).

Body-Worn Camera (BWC) footage of the incident was obtained from the BWCs of Sergeant Begg, Police Officer Antic, Police Officer Halis, Police Officer Neufville, Police Officer Cottone, Police Officer Diberardino, Police Officer Ysabel, Police Officer Cubano, Police Officer Chavez, Police Officer Persaud, Police Officer Zaunalequin, and Police Officer Rosero (Board Review 11 – 22). The footage is attached to IA #s 56 – 67 and Summarized in IA # 87 (Board Review 24).

## Findings and Recommendations

**Allegation (A) Force:** § 87(2)(b) officers used physical force against § 87(2)(b)  
**Allegation (B) Force:** § 87(2)(b) officers used physical force against § 87(2)(b)  
**Allegation (C) Abuse of Authority:** § 87(2)(b) an officer interfered with § 87(2)(b)'s use of a recording device.  
**Allegation (D) Abuse of Authority:** § 87(2)(b) Sergeant John Begg failed to provide § 87(2)(b) with a business card.  
**Allegation (E) Abuse of Authority:** § 87(2)(b) Sergeant John Begg refused to provide his name to § 87(2)(b)  
**Allegation (F) Abuse of Authority:** § 87(2)(b) Sergeant John Begg refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) was interviewed on September 20, 2019 (Board Review 01). Sergeant Begg and Police Officer Halis were interviewed on March 12, 2020 (Board Review 03). Police Officer Antic

was interviewed on December 16, 2020 (Board Review 02). Police Officer Nicholas Russo and Police Officer Christopher Bair were interviewed on March 9, 2021 (Board Review 05, 06). The investigation exhausted contact attempts to § 87(2)(b) and § 87(2)(b) but were unable to obtain statements from them.

Based on the undisputed testimony and the combined BWC footage, the investigation established the following principal facts: On August 16, 2019, at approximately 1:58 AM, § 87(2)(b) was in the company of several individuals gathered outside of § 87(2)(b), one of whom had an active order of protection issued against § 87(2)(b). After the individual, identified by the investigation as § 87(2)(b), sought assistance from PSA 9 officers patrolling the area, Sergeant Begg responded to the scene with several additional units. Upon confirming the existence of the order of protection, Sergeant Begg approached § 87(2)(b) and informed him that he was going to be placed under arrest for violating the active order. Several of the officers then arrested § 87(2)(b) by taking him down to the ground. Officers also arrested § 87(2)(b) for interfering with § 87(2)(b)'s arrest. § 87(2)(b) complained of left arm pain after the arrest and was removed to § 87(2)(b) for medical treatment. X-rays conducted at the hospital revealed no fractures, and § 87(2)(b) was eventually discharged back to police custody with pain medication.

Sergeant Begg's BWC shows the encounter from its inception – his arrival at the scene, his conferral with the primary responding officers, and his initial approach of the civilian group – to the very beginning of § 87(2)(b)'s arrest, at which point his BWC falls to the ground.

Beginning at 5:30 in Sergeant Begg's BWC video, § 87(2)(b) can be seen seated on the bench (black male, second from left), refusing Sergeant Begg's repeated orders to stand up and submit to the arrest. At 6:53 in the video, § 87(2)(b) says to Sergeant Begg's, "I need card numbers." Sergeant Begg responds, "Once you get up, you'll get that information." § 87(2)(b) remains seated, prompting Sergeant Begg to tell him thrice more to stand up. § 87(2)(b) asks Sergeant Begg for his "card number" again, while holding up his hand in the shape of a card. As the conversation between § 87(2)(b) and Sergeant Begg is occurring, several of the individuals seated and standing around § 87(2)(b) and the officers repeatedly interject. At 7:25, as the other individuals in the group become increasingly vocal in protesting § 87(2)(b)'s impending arrest, a female appears to situate herself between § 87(2)(b) and the officers.

At about 7:50, when the officers move in to grab § 87(2)(b) at least one other person, § 87(2)(b), becomes physically involved in the escalating struggle. The rapid movement and close proximity of the subsequent interactions make it difficult to discern exactly how the officers engage § 87(2)(b) (and then § 87(2)(b)), including those in close contact with them – Police Officer Cottone, Police Officer Debiardino, Police Officer Chavez, Police Officer Halis, and Police Officer Cubano. The combined video footage though shows that § 87(2)(b) appears to be taken down to the ground and handcuffed within approximately 40 seconds. While the sequence of the action is equally difficult to examine, § 87(2)(b) also appears to be subject to a similar takedown. The footage shows no other use of force beyond the two takedowns nor any audible expressions of pain, verbal or otherwise, from § 87(2)(b).

§ 87(2)(b) stated that he dropped himself to the ground of his own volition when the officers grabbed him. § 87(2)(b) said he never received any identifying information from the officers at any point in time (While § 87(2)(b) alleged that he repeatedly verbalized multiple requests for the officers' names, shield numbers, and business cards, both immediately before and after his takedown and handcuffing, the BWC footage shows that he only articulated himself about "card numbers" as detailed above and did so while in conversation with Sergeant Begg). He did not

observe the allegations he made regarding § 87(2)(b) and § 87(2)(b) himself; he was just told of the allegations by each of them after he was released.

Sergeant Begg § 87(2)(g) stated that no additional force – beyond what was on the video – was used to arrest § 87(2)(b). Sergeant Begg initially said he did not recall if § 87(2)(b) asked him or any other officer for their names or shield numbers. Regarding § 87(2)(b)'s request for “card numbers,” Sergeant Begg confirmed that he did not respond by providing his business card or identifying himself by name or shield number, and that his primary objective at the time was securing § 87(2)(b). Sergeant Begg could not say if § 87(2)(b) was ever provided with a business card at a later time. However, he stated that as soon as he returned to the stationhouse after the arrest, unrelated emergency medical issues required him to end his tour immediately and seek hospital attention (His memo book corroborates that at 2:20 a.m. he arrived at § 87(2)(b) regarding a Line of Duty illness or injury and was off-duty due to this Line of Duty ailment for at least the next two days (Board Review 29)). Sergeant Begg did return to the stationhouse later that morning to finish his tour but did not see § 87(2)(b) again and did not partake in any aspect of the case beyond serving as verifying supervisor for the arrest paperwork.

The accounts of Police Officer Antic and Police Officer Halis, the other two interviewed officers who were involved at the scene, were consistent with that of Sergeant Begg.

Police Officer Christopher Bair transported § 87(2)(b) to Queens Central Booking and generated his Medical Treatment of Prisoner Report (Board Review 09), which confirms that he was transported to § 87(2)(b) due to a complaint of “shoulder, elbow, and wrist pain” and that he ultimately required no additional medical attention when he arrived at Queens Central Booking.

Threat Injury Report (TRI) documentation prepared by Police Officer Halis and Police Officer Chavez both document the take-down as the only force used against § 87(2)(b) to overcome his resisting arrest (“pulling away arms”) and note no injuries beyond a left wrist contusion (Board Review 10).

Per NYPD Patrol Guide (P.G.) Procedure 221-01, force may be used by an officer when it is reasonable to ensure the safety of another officer or third party, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. All use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, officers should consider factors including the nature and severity of the crime/circumstances, the duration of the action, the immediacy of the perceived threat or harm, the number of subjects, the presence of [a] hostile crowd or agitators, and whether the subject is actively resisting custody (Board Review 25).

Per New York City Administrative Code section 14-174, officers must offer a business card to the subject of law enforcement activity at the conclusion of any law enforcement activity when requested (Board Review 27).

Per NYPD P.G. Procedure 203-09, officers must state their name, shield number, and command, or otherwise provide them, to anyone who asks them to do so (Board Review 26).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (G) Discourtesy: At § 87(2)(b) in Queens, Police Officer Nicholas Russo spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that he was removed to the 114th Precinct stationhouse where an ambulance was called because his left arm was in pain. § 87(2)(b) § 87(2)(b) was uncuffed and X-rayed. Staff eventually informed him that his arm was not fractured and administered pain medication. After they were finished, the officers in the room told § 87(2)(b) that he was going to be handcuffed again. But § 87(2)(b) protested and said he would not let them handcuff his left arm because he was still in pain. During the brief exchange that followed, one of the officers, who § 87(2)(b) described as a short white male, told § 87(2)(b) “You are going to put that fucking arm behind your back and we are going back to the precinct.”

Police Officer Russo identified himself as the officer assigned to guard § 87(2)(b) at the hospital at the time § 87(2)(b) was being X-rayed. Under the direction of medical staff, Police Officer Russo released § 87(2)(b) from his handcuffs for the X-ray examination. However, § 87(2)(b) refused to cooperate when Police Officer Russo tried to re-apply the handcuffs after the X-ray examination was completed, though Police Officer Russo did not recall exactly what § 87(2)(b) said or did in being “uncooperative.” Police Officer Russo denied that he or any other officer used profanity towards § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Sergeant Begg has been a member of service for 22 years and has been a subject in three prior CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Russo has been a member of service for five years and has been a subject in two prior CCRB complaints and two allegations, neither of which were substantiated. § 87(2)(g)

### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- On August 5, 2021, a Notice of Claim query was submitted to the New York City Office of the Comptroller. The response will be added to the case file upon receipt (Board Review 28).
- § 87(2)(b)
- § 87(2)(b)

Squad: 02

Investigator: _____/sprakash_____	Inv Santosh Prakash_____	8/11/21_____
Signature	Print Title & Name	Date
Squad Leader: <u>Alexander Opoku-Agyemang</u>	<u>IM Alexander Opoku-Agyemang</u>	<u>8/11/2021</u>
Signature	Print Title & Name	Date